

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

| | | |
|------------------------------------|---|-----------------------|
| Jonathan Lee Riches, |) | |
| |) | C/A No. 6:08-0123-MBS |
| Plaintiff, |) | |
| |) | |
| vs. |) | O R D E R |
| |) | |
| Andrew Speaker d/b/a Tuberculosis, |) | |
| |) | |
| Defendant. |) | |
| |) | |

Plaintiff Jonathan Lee Riches is an inmate in custody of the Bureau of Prisons who currently is housed at FCI-Williamsburg in Salters, South Carolina. On January 15, 2008, Plaintiff, proceeding pro se, filed the within complaint pursuant to 42 U.S.C. § 1983.

In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge William M. Catoe for pretrial handling. The Magistrate Judge reviewed the complaint pursuant to 28 U.S.C. §§ 1915, 1915A, and the Prison Litigation Reform Act of 1996. On February 13, 2008, the Magistrate Judge issued a Report and Recommendation in which he recommended that the within action be dismissed because Defendant is not amenable to suit under § 1983, and Plaintiff has failed to state cognizable claim for relief under that statute. The Magistrate Judge also determined that the complaint is frivolous under 28 U.S.C. §§ 1915A and 1915(e)(2). Plaintiff filed no objections to the Report and Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). The court is charged with making a de novo determination of any portions of the Report and Recommendation to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the

Magistrate Judge or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of objections to the Report, this court is not required to give any explanation for adopting the recommendation. Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983).

The court has carefully reviewed the record and concurs in the recommendation of the Magistrate Judge. The court adopts the Report and Recommendation and incorporates it herein by reference. The within action is dismissed without prejudice and without issuance of service of process. Moreover, as the Magistrate Judge noted, **Plaintiff has been and is again placed on notice that he may be subject to sanctions if he continues to file complaints that he fails to pursue and prosecute, and/or continues to file cases that fail to state a claim on which relief may be granted or are deemed frivolous or malicious.**

IT IS SO ORDERED.

/s/ Margaret B. Seymour
United States District Judge

Columbia, South Carolina

March 10, 2008

NOTICE OF RIGHT TO APPEAL

Plaintiff is hereby notified that he has the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.